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**BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Stipulated Settlement and
Disciplinary Order Against:

JILL MARIE WINKLER
AKA JILL MARIE KAUFFMAN
4725 Allied Road
San Diego, CA 92120

Registered Nurse License No. 269287

Respondent.

Case No. 2012-547


**STIPULATED SURRENDER OF
LICENSE AND ORDER**

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the
Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

It is so ORDERED on JANUARY 24, 2013.

This Decision shall become effective on JANUARY 24, 2013.



Louise R. Bailey, M.Ed., R.N., Executive Officer
FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Stipulated Settlement and
Disciplinary Order Against:

JILL MARIE WINKLER
AKA JILL MARIE KAUFFMAN
4725 Allied Road
San Diego, CA 92120

Registered Nurse License No. 269287

Respondent.

Case No. 2012-547.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties that
the following matters are true:

PARTIES

1. Louise R. Bailey, M.Ed., R.N. (Complainant) is the Executive Officer of
the Board of Registered Nursing, who brought this action solely in her official capacity.

2. Jill Marie Winkler, a.k.a. Jill Marie Kauffman (Respondent), is
representing herself in this proceeding and has chosen not to exercise her right to be represented
by counsel.

3. On or about August 31, 1976, the Board of Registered Nursing issued
Registered Nurse License No. 269287 to Jill Marie Winkler, a.k.a. Jill Marie Kauffman
(Respondent). The Registered Nurse license was in full force and effect at all times relevant to
the charges brought in First Amended Accusation No. 2012-547 and will expire on
September 30, 2014, unless renewed.

JURISDICTION

4. On December 14, 2012, the Board of Registered Nursing adopted
Stipulated Settlement and Disciplinary Order No. 2012-547, which became effective on
January 14, 2013. The Stipulated Settlement and Disciplinary Order requires, inter alia, the
respondent to serve a 3-year probation term that includes Probation Conditions # 1-19. The

1 Stipulated Settlement and Disciplinary Order is attached as exhibit A and incorporated herein by
2 reference.

3 5. At all times after the effective date of Respondent's probation, Condition
4 13 states,

5 **"License Surrender.** During Respondent's term of probation, if she
6 ceases practicing due to retirement, health reasons or is otherwise
7 unable to satisfy the conditions of probation, Respondent may surrender
8 her license to the Board. The Board reserves the right to evaluate
9 Respondent's request and to exercise its discretion whether to grant the
10 request, or to take any other action deemed appropriate and reasonable
11 under the circumstances, without further hearing. Upon formal
12 acceptance of the tendered license and wall certificate, Respondent will
13 no longer be subject to the conditions of probation.

14 Surrender of Respondent's license shall be considered a disciplinary action
15 and shall become a part of Respondent's license history with the Board. A
16 registered nurse whose license has been surrendered may petition the Board for
17 reinstatement no sooner than the following minimum periods from the effective
18 date of the disciplinary decision:

19 (1) Two years for reinstatement of a license that was surrendered for
20 any reason other than a mental or physical illness; or

21 (2) One year for a license surrendered for a mental or physical illness."
22

23
24 ADVISEMENT AND WAIVERS

25 6. Respondent has carefully read and understands Stipulated Settlement
26 and Disciplinary Order No. 2012-547. Respondent has carefully read, and understands the
27 effects of this Stipulated Surrender of License and Order and understands that this Stipulated
28 Surrender, if accepted by the Board, is considered as formal discipline of her license.

1 7. Respondent understands that by signing this stipulation she enables
2 the Board to accept the surrender of her Registered Nurse License without further process.

3
4 CONTINGENCY

5 8. This stipulation shall be subject to approval by the Board of Registered
6 Nursing. The Respondent understands and agrees that by signing this Stipulated Surrender of
7 License and Order, she may not withdraw her agreement or seek to rescind the stipulation prior
8 to the date it becomes effective. If the Board declines to accept this stipulation as its Decision
9 and Order, the Stipulated Surrender of License and Order shall be of no force or effect, except
10 for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board
11 shall not be disqualified from further action by having considered this matter.

12 9. This Stipulated Surrender of License and Order is intended by the parties to
13 be an integrated writing representing the complete, final, and exclusive embodiment of their
14 agreement. It supersedes any and all prior or contemporaneous agreements, understandings,
15 discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of
16 License and Order may not be altered, amended, modified, supplemented, or otherwise changed
17 except by a writing executed by an authorized representative of each of the parties.

18 10. The parties understand and agree that facsimile copies of this Stipulated
19 Surrender of License and Order, including facsimile signatures thereto, shall have the same
20 force and effect as the originals.

21 11. In consideration of the foregoing stipulations, the parties agree that the
22 Board may, without further notice or formal proceeding, issue and enter the following Order:

23
24 ORDER

25 IT IS HEREBY ORDERED that Registered Nurse License No. 269287, issued to
26 Respondent Jill Marie Winkler, a.k.a. Jill Marie Kauffman, is surrendered and the surrender is
27 accepted by the Board of Registered Nursing.

1 12. The surrender of Respondent's Registered Nurse License and the
2 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
3 against Respondent. This stipulation constitutes a record of the discipline and shall become a
4 part of Respondent's license history with the Board.

5 13. Respondent shall lose all rights and privileges as a Registered Nurse in
6 California as of the effective date of the Board's Decision and Order.

7 14. Respondent shall cause to be delivered to the Board both her pocket license and
8 wall certificate, if one was issued, on or before the effective date of the Decision and Order.

9 15. Respondent fully understands and agrees that if she ever files an application for
10 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
11 petition for reinstatement. Respondent must comply with all the laws, regulations and procedures
12 for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges
13 and allegations contained in First Amended Accusation No. 2012-547 shall be deemed to be true,
14 correct and admitted by Respondent when the Board determines whether to grant or deny the
15 petition.

16 16. Upon reinstatement of the license by the Board, Respondent shall pay to the
17 Board costs associated with its investigation and enforcement pursuant to Business and Professions
18 Code section 125.3 in the amount of \$2,595.00 which is the amount currently owed pursuant to
19 Stipulated Settlement and Disciplinary Order No. 2012-547 (Exhibit A). If the reinstatement of
20 Respondent's license is granted, Respondent shall be permitted to pay these costs in a payment plan
21 approved by the Board.

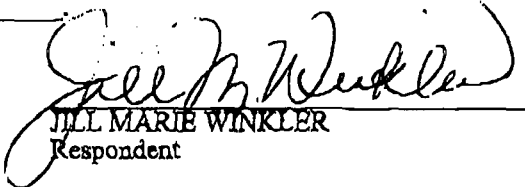
22 17. Respondent shall not apply for licensure or petition for reinstatement for 1 year
23 from the effective date of the Board of Registered Nursing's Decision and Order.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.


DATED: 1/26/13


JILL MARIE WINKLER
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully accepted by Louise R. Bailey, M.Ed., R.N. (Complainant) as the Executive Officer for the Board of Registered Nursing.

DATED: JANUARY 24, 2012


Louise R. Bailey, M.Ed., R.N.
Executive Officer

BOARD OF REGISTERED NURSING

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EXHIBIT "A"

Stipulated Settlement and Disciplinary Order No. 2012-547

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended Accusation
Against:

**JILL MARIE WINKLER
AKA JILL MARIE KAUFFMAN
4725 Allied Road
San Diego, CA 92120**

Registered Nurse License No. 269287

Respondent

Case No. 2012- 547

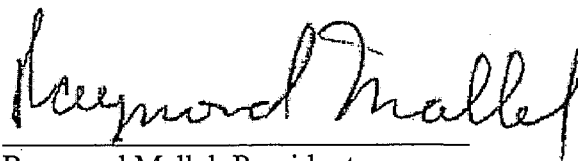
OAH No. 2012040629

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **January 14, 2013.**

IT IS SO ORDERED **December 14, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2143
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the First Amended Accusation
12 Against:

13 **JILL MARIE WINKLER,**
14 **AKA JILL MARIE KAUFFMAN**
15 **4725 Allied Road**
San Diego, CA 92120

16 **Registered Nurse License No. 269287**

17 Respondent.

Case No. 2012-547

OAH No. 2012040629

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
23 Registered Nursing. She brought this action solely in her official capacity and is represented in
24 this matter by Kamala D. Harris, Attorney General of the State of California, by Nicole R. Trama,
25 Deputy Attorney General.

26 2. Respondent Jill Marie Winkler, aka Jill Marie Kauffman (Respondent) is represented
27 in this proceeding by attorney Sarah Chesteen, Esq., whose address is: Goyette & Associates,
28 Inc., 2366 Gold Medal Way, Ste. 200, Gold River, CA 95670.

3. On or about August 31, 1976, the Board of Registered Nursing issued Registered Nurse License No. 269287 to Jill Marie Winkler, aka Jill Marie Kauffman (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in the First Amended Accusation No. 2012-547 and will expire on September 30, 2012, unless renewed.

JURISDICTION

4. Accusation No. 2012-547 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 14, 2012. Respondent timely filed her Notice of Defense contesting the Accusation. On September 6, 2012, the Board filed and served the First Amended Accusation No. 2012-547.

5. A copy of the First Amended Accusation No. 2012-547 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation No. 2012-547. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in the First Amended Accusation No. 2012-547. With respect to the Fourth Cause for Discipline in the First Amended Accusation No. 2012-547, Respondent admits that she requested information, but not entry to the Diversion Program, and decided not to enter, which subjected her to discipline.

10. Respondent agrees that her Registered Nurse License is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 269287 issued to Respondent Jill Marie Winkler, aka Jill Marie Kauffman (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

1 Upon successful completion of probation, Respondent's license shall be fully restored.

2 3. **Report in Person.** Respondent, during the period of probation, shall appear in
3 person at interviews/meetings as directed by the Board or its designated representatives.

4 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
5 practice as a registered nurse outside of California shall not apply toward a reduction of this
6 probation time period. Respondent's probation is tolled, if and when she resides outside of
7 California. Respondent must provide written notice to the Board within 15 days of any change of
8 residency or practice outside the state, and within 30 days prior to re-establishing residency or
9 returning to practice in this state.

10 Respondent shall provide a list of all states and territories where she has ever been licensed
11 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
12 information regarding the status of each license and any changes in such license status during the
13 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
14 license during the term of probation.

15 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
16 or cause to be submitted such written reports/declarations and verification of actions under
17 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
18 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
19 Respondent shall immediately execute all release of information forms as may be required by the
20 Board or its representatives.

21 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
22 state and territory in which she has a registered nurse license.

23 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
24 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
25 6 consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered nursing"
27 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
28 non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice nursing
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and
4 Respondent has presented sufficient documentation of her good faith efforts to comply with this
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
6 extension of Respondent's probation period up to one year without further hearing in order to
7 comply with this condition. During the one year extension, all original conditions of probation
8 shall apply.

9 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
10 prior approval from the Board before commencing or continuing any employment, paid or
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
12 performance evaluations and other employment related reports as a registered nurse upon request
13 of the Board.

14 Respondent shall provide a copy of this Decision to her employer and immediate
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two
17 (72) hours after she obtains any nursing or other health care related employment. Respondent
18 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
19 separated, regardless of cause, from any nursing, or other health care related employment with a
20 full explanation of the circumstances surrounding the termination or separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
22 Respondent's level of supervision and/or collaboration before commencing or continuing any
23 employment as a registered nurse, or education and training that includes patient care.

24 Respondent shall practice only under the direct supervision of a registered nurse in good
25 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
26 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
27 approved.

28 Respondent's level of supervision and/or collaboration may include, but is not limited to the

1 following:

2 (a) Maximum - The individual providing supervision and/or collaboration is present in
3 the patient care area or in any other work setting at all times.

4 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
5 care unit or in any other work setting at least half the hours Respondent works.

6 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
7 person communication with Respondent at least twice during each shift worked.

8 (d) Home Health Care - If Respondent is approved to work in the home health care
9 setting, the individual providing supervision and/or collaboration shall have person-to-person
10 communication with Respondent as required by the Board each work day. Respondent shall
11 maintain telephone or other telecommunication contact with the individual providing supervision
12 and/or collaboration as required by the Board during each work day. The individual providing
13 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
14 patients' homes visited by Respondent with or without Respondent present.

15 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
16 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
17 or for an in-house nursing pool.

18 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
19 registered nursing supervision and other protections for home visits have been approved by the
20 Board. Respondent shall not work in any other registered nursing occupation where home visits
21 are required.

22 Respondent shall not work in any health care setting as a supervisor of registered nurses.
23 The Board may additionally restrict Respondent from supervising licensed vocational nurses
24 and/or unlicensed assistive personnel on a case-by-case basis.

25 Respondent shall not work as a faculty member in an approved school of nursing or as an
26 instructor in a Board approved continuing education program.

27 Respondent shall work only on a regularly assigned, identified and predetermined
28 worksite(s) and shall not work in a float capacity.

1 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
2 request documentation to determine whether there should be restrictions on the hours of work.

3 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
4 successfully complete a course(s) relevant to the practice of registered nursing no later than six
5 months prior to the end of her probationary term.

6 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
7 Respondent shall submit to the Board the original transcripts or certificates of completion for the
8 above required course(s). The Board shall return the original documents to Respondent after
9 photocopying them for its records.

10 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
11 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
12 amount of \$2,595.00. Respondent shall be permitted to pay these costs in a payment plan
13 approved by the Board, with payments to be completed no later than three months prior to the end
14 of the probation term.

15 If Respondent has not complied with this condition during the probationary term, and
16 Respondent has presented sufficient documentation of her good faith efforts to comply with this
17 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
18 extension of Respondent's probation period up to one year without further hearing in order to
19 comply with this condition. During the one year extension, all original conditions of probation
20 will apply.

21 12. **Violation of Probation.** If Respondent violates the conditions of her probation, the
22 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
23 and impose the stayed discipline (revocation/suspension) of Respondent's license.

24 If during the period of probation, an accusation or petition to revoke probation has been
25 filed against Respondent's license or the Attorney General's Office has been requested to prepare
26 an accusation or petition to revoke probation against Respondent's license, the probationary
27 period shall automatically be extended and shall not expire until the accusation or petition has
28 been acted upon by the Board.

1 13. **License Surrender.** During Respondent's term of probation, if she ceases practicing
2 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
3 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
4 Respondent's request and to exercise its discretion whether to grant the request, or to take any
5 other action deemed appropriate and reasonable under the circumstances, without further hearing.
6 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
7 subject to the conditions of probation.

8 Surrender of Respondent's license shall be considered a disciplinary action and shall
9 become a part of Respondent's license history with the Board. A registered nurse whose license
10 has been surrendered may petition the Board for reinstatement no sooner than the following
11 minimum periods from the effective date of the disciplinary decision:

12 (1) Two years for reinstatement of a license that was surrendered for any reason other
13 than a mental or physical illness; or

14 (2) One year for a license surrendered for a mental or physical illness.

15 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
16 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
17 assistant, who is approved by the Board before the assessment is performed, submit an
18 assessment of the Respondent's physical condition and capability to perform the duties of a
19 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
20 medically determined, a recommended treatment program will be instituted and followed by the
21 Respondent with the physician, nurse practitioner, or physician assistant providing written reports
22 to the Board on forms provided by the Board.

23 If Respondent is determined to be unable to practice safely as a registered nurse, the
24 licensed physician, nurse practitioner, or physician assistant making this determination shall
25 immediately notify the Board and Respondent by telephone, and the Board shall request that the
26 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
27 immediately cease practice and shall not resume practice until notified by the Board. During this
28 period of suspension, Respondent shall not engage in any practice for which a license issued by

the Board is required until the Board has notified Respondent that a medical determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

15. Participate in Treatment/Rehabilitation Program for Chemical Dependence.

Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

Based on Board recommendation, each week Respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

16. Abstain from Use of Psychotropic (Mood-Altering) Drugs. Respondent shall

1 completely abstain from the possession, injection or consumption by any route of all controlled
2 substances and all psychotropic (mood altering) drugs, including alcohol, except when the same
3 are ordered by a health care professional legally authorized to do so as part of documented
4 medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14)
5 days, by the prescribing health professional, a report identifying the medication, dosage, the date
6 the medication was prescribed, the Respondent's prognosis, the date the medication will no
7 longer be required, and the effect on the recovery plan, if appropriate.

8 Respondent shall identify for the Board a single physician, nurse practitioner or physician
9 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
10 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
11 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
12 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
13 considered addictive have been prescribed, the report shall identify a program for the time limited
14 use of any such substances.

15 The Board may require the single coordinating physician, nurse practitioner, or physician
16 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
17 medicine.

18 **17. Submit to Tests and Samples.** Respondent, at her expense, shall participate in a
19 random, biological fluid testing or a drug screening program which the Board approves. The
20 length of time and frequency will be subject to approval by the Board. Respondent is responsible
21 for keeping the Board informed of Respondent's current telephone number at all times.
22 Respondent shall also ensure that messages may be left at the telephone number when she is not
23 available and ensure that reports are submitted directly by the testing agency to the Board, as
24 directed. Any confirmed positive finding shall be reported immediately to the Board by the
25 program and Respondent shall be considered in violation of probation.

26 In addition, Respondent, at any time during the period of probation, shall fully cooperate
27 with the Board or any of its representatives, and shall, when requested, submit to such tests and
28 samples as the Board or its representatives may require for the detection of alcohol, narcotics,

1 hypnotics, dangerous drugs, or other controlled substances.

2 If Respondent has a positive drug screen for any substance not legally authorized and not
3 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
4 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
5 practice pending the final decision on the petition to revoke probation or the accusation. This
6 period of suspension will not apply to the reduction of this probationary time period.

7 If Respondent fails to participate in a random, biological fluid testing or drug screening
8 program within the specified time frame, Respondent shall immediately cease practice and shall
9 not resume practice until notified by the Board. After taking into account documented evidence
10 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
11 suspend Respondent from practice pending the final decision on the petition to revoke probation
12 or the accusation. This period of suspension will not apply to the reduction of this probationary
13 time period.

14 **18. Mental Health Examination.** Respondent shall, within 45 days of the effective date
15 of this Decision, have a mental health examination including psychological testing as appropriate
16 to determine her capability to perform the duties of a registered nurse. The examination will be
17 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
18 the Board. The examining mental health practitioner will submit a written report of that
19 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
20 Recommendations for treatment, therapy or counseling made as a result of the mental health
21 examination will be instituted and followed by Respondent.

22 If Respondent is determined to be unable to practice safely as a registered nurse, the
23 licensed mental health care practitioner making this determination shall immediately notify the
24 Board and Respondent by telephone, and the Board shall request that the Attorney General's
25 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
26 practice and may not resume practice until notified by the Board. During this period of
27 suspension, Respondent shall not engage in any practice for which a license issued by the Board
28 is required, until the Board has notified Respondent that a mental health determination permits

Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

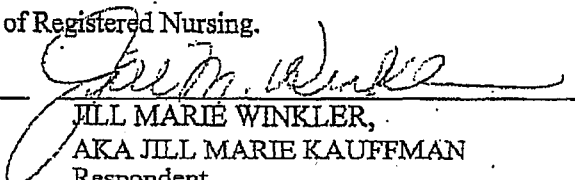
If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

19. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

ACCEPTANCE


I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Sarah Chesteen, Esq. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 9/7/12


JILL MARIE WINKLER,
AKA JILL MARIE KAUFFMAN
Respondent

I have read and fully discussed with Respondent Jill Marie Winkler, aka Jill Marie Kauffman the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9/7/2012


SARAH CHESTEEN, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 9/10/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

Nicole R. Trama

NICOLE R. TRAMA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 2012-547

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2 LINDA K. SCHNEIDER
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Facsimile: (619) 645-2061
8 *Attorneys for Complainant*

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2012-547

13 **JILL MARIE WINKLER,**
14 **aka JILL MARIE KAUFFMAN**
15 **4725 Allied Road**
San Diego, CA 92120

FIRST AMENDED ACCUSATION

16 **Registered Nurse License No. 269287**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about August 31, 1976, the Board of Registered Nursing issued Registered
24 Nurse License Number 269287 to Jill Marie Winkler, also known as Jill Marie Kauffman
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
26 the charges brought herein and will expire on September 30, 2012, unless renewed.

27 ///

JURISDICTION

3. This First Amended Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

9

10 (d) Violating or attempting to violate, directly or indirectly, or assisting in or
11 abetting the violating of, or conspiring to violate any provision or term of this chapter
[the Nursing Practice Act] or regulations adopted pursuant to it.

12

13 (f) Conviction of a felony or of any offense substantially related to the
14 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

15

16 10. Section 2762 of the Code states:

17 In addition to other acts constituting unprofessional conduct within the meaning
18 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do any of the following:

19

20 (b) Use any controlled substance as defined in Division 10 (commencing with
21 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
22 dangerous or injurious to himself or herself, any other person, or the public or to the
extent that such use impairs his or her ability to conduct with safety to the public the
23 practice authorized by his or her license.

24 (c) Be convicted of a criminal offense involving the prescription, consumption,
or self-administration of any of the substances described in subdivisions (a) and (b) of
25 this section, or the possession of, or falsification of a record pertaining to, the
substances described in subdivision (a) of this section, in which event the record of
26 the conviction is conclusive evidence thereof.

27

28 ///

11. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

12. Section 2770.1 of the Code states:

As used in this article:

(a) "Board" means the Board of Registered Nursing.

(b) "Committee" means a diversion evaluation committee created by this article.

(c) "Program manager" means the staff manager of the diversion program, as designated by the executive officer of the board. The program manager shall have background experience in dealing with substance abuse issues.

13. Section 2770.7 of the Code states:

(a) The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the diversion program. Only those registered nurses who have voluntarily requested to participate in the diversion program shall participate in the program.

(b) A registered nurse under current investigation by the board may request entry into the diversion program by contacting the board. Prior to authorizing a registered nurse to enter into the diversion program, the board may require the registered nurse under current investigation for any violations of this chapter or any other provision of this code to execute a statement of understanding that states that the registered nurse understands that his or her violations that would otherwise be the basis for discipline may still be investigated and may be the subject of disciplinary action.

(c) If the reasons for a current investigation of a registered nurse are based primarily on the self-administration of any controlled substance or dangerous drug or alcohol under Section 2762, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drug for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the registered nurse is accepted into the board's diversion program and successfully completes the requirements of the program. If the registered nurse withdraws or is terminated from the program by a diversion evaluation committee, and the termination is approved by the program manager, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.

1 (d) Neither acceptance nor participation in the diversion program shall preclude
2 the board from investigating or continuing to investigate, or taking disciplinary action
3 or continuing to take disciplinary action against, any registered nurse for any
unprofessional conduct committed before, during, or after participation in the
diversion program.

4 (e) All registered nurses shall sign an agreement of understanding that the
5 withdrawal or termination from the diversion program at a time when the program
6 manager or diversion evaluation committee determines the licentiate presents a threat
to the public's health and safety shall result in the utilization by the board of diversion
treatment records in disciplinary or criminal proceedings.

7 (f) Any registered nurse terminated from the diversion program for failure to
8 comply with program requirements is subject to disciplinary action by the board for
9 acts committed before, during, and after participation in the diversion program. A
10 registered nurse who has been under investigation by the board and has been
terminated from the diversion program by a diversion evaluation committee shall be
reported by the diversion evaluation committee to the board.

11 14. Section 2770.11 of the Code states:

12 (a) Each registered nurse who requests participation in a diversion program
13 shall agree to cooperate with the rehabilitation program designed by the committee
14 and approved by the program manager. Any failure to comply with the provisions of
15 a rehabilitation program may result in termination of the registered nurse's
participation in a program. The name and license number of a registered nurse who is
terminated for any reason, other than successful completion, shall be reported to the
board's enforcement program.

16 (b) If the program manager determines that a registered nurse, who is denied
17 admission into the program or terminated from the program, presents a threat to the
18 public or his or her own health and safety, the program manager shall report the name
19 and license number, along with a copy of all diversion records for that registered
nurse, to the board's enforcement program. The board may use any of the records it
receives under this subdivision in any disciplinary proceeding.

20 REGULATORY PROVISIONS

21 15. California Code of Regulations, title 16, section 1444, states:

22 A conviction or act shall be considered to be substantially related to the
23 qualifications, functions or duties of a registered nurse if to a substantial degree it
24 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

25 (a) Assaultive or abusive conduct including, but not limited to, those violations
26 listed in subdivision (d) of Penal Code Section 11160.

27 (b) Failure to comply with any mandatory reporting requirements.

28 (c) Theft, dishonesty, fraud, or deceit.

1 (d) Any conviction or act subject to an order of registration pursuant to Section
2 290 of the Penal Code.

3 16. California Code of Regulations, title 16, section 1445 states:

4

5 (b) When considering the suspension or revocation of a license on the grounds
6 that a registered nurse has been convicted of a crime, the board, in evaluating the
7 rehabilitation of such person and his/her eligibility for a license will consider the
8 following criteria:

9 (1) Nature and severity of the act(s) or offense(s).

10 (2) Total criminal record.

11 (3) The time that has elapsed since commission of the act(s) or offense(s).

12 (4) Whether the licensee has complied with any terms of parole, probation,
13 restitution or any other sanctions lawfully imposed against the licensee.

14 (5) If applicable, evidence of expungement proceedings pursuant to Section
15 1203.4 of the Penal Code.

16 (6) Evidence, if any, of rehabilitation submitted by the licensee.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(December 8, 2004 Criminal Conviction for DUI on September 8, 2004)**

19 17. Respondent has subjected her license to disciplinary action under sections 490 and
20 2761, subdivision (f) of the Code in that she was convicted of a crime that is substantially related
21 to the qualifications, functions, and duties of a registered nurse. The circumstances are as
22 follows:

23 a. On or about December 8, 2004, in a criminal proceeding entitled *People of the*
24 *State of California v. Jill M. Winkler*, in San Diego County Superior Court, case number
25 M941025, Respondent was convicted on her plea of guilty of violating Vehicle Code section
26 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08% or more, a
27 misdemeanor. The court dismissed an additional count of violating Vehicle Code section 23152,
28 subdivision (a), driving under the influence of alcohol, pursuant to Respondent's plea agreement.
The court assessed Respondent's BAC as .19 percent.

///

b. As a result of the conviction, on or about December 8, 2004, Respondent was sentenced to serve 180 days in jail, stayed, pending successful completion of five years summary probation. Respondent was further ordered to attend and complete a First Conviction Program, a MADD victim impact panel session, and five days of public service, with credit for two days. Respondent was required to pay fees, fines, and restitution in the amount of \$1,800, and comply with the terms of standard DUI probation.

c. The facts that led to the conviction are that on or about the evening of September 8, 2004, a patrol officer with the San Diego Police Department was dispatched to a report of a single-vehicle collision involving Respondent. Upon arrival, the officer learned that Respondent collided with a cement wall as she was driving up a winding hill. The officer observed Respondent talking to paramedics. Upon contact with Respondent, he noted that her eyes were bloodshot, watery and droopy, her speech was slurred, her gait was unsteady, and he could smell the odor of an alcoholic beverage emitting from her person. The paramedics were of the opinion that Respondent did not need to be transported. The police officer suggested that Respondent be taken to a flat, level area where field sobriety tests could be administered. At that time, Respondent refused to sign the releasing paperwork for the paramedics, and stated that she wanted to be taken to the hospital. Once at the hospital, the officer attempted to obtain a breath sample for the preliminary alcohol screening test. After six unsuccessful attempts at obtaining a breath sample, a sample of blood was taken from Respondent's arm. Respondent complained of pain to her neck, chest, and lower back. Respondent was arrested for DUI.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)

18. Respondent has subjected her registered nurse license to disciplinary action under section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about September 8, 2004, as described in paragraph 17, above, Respondent used alcoholic beverages to an extent or in a manner that was dangerous and injurious to herself, and to others in that she operated a motor vehicle with significantly high blood alcohol concentration and caused a collision.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Conviction of an Alcohol-Related Criminal Offense)**

3 19. Respondent has subjected her registered nurse license to disciplinary action under
4 section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about
5 December 8, 2004, as described in paragraph 17, above, Respondent was convicted of a criminal
6 offense involving the consumption and/or self-administration of alcohol.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct & Use of Alcohol in a Dangerous Manner)**

9 20. Respondent has subjected her license to disciplinary action under section 2761,
10 subdivision (a) and 2762, subdivision (b) of the Code in that she reported for work as a registered
11 nurse after drinking alcohol. The circumstances are as follows:

12 a. On or about August 13, 2011, Respondent was placed on administrative leave
13 after she showed up for her 7:00 a.m. shift at Sharp Memorial Hospital in San Diego after
14 drinking alcohol. She was asked to submit a serum blood sample for testing. Respondent agreed
15 to seek treatment and report the incident to the Board's Diversion Program.

16 b. On August 30, 2011, Respondent contacted the Board's Diversion Program and
17 requested entry. The initial intake meeting was completed on September 7, 2011. At that time,
18 Respondent admitted to her Diversion Program case manager that she drank alcohol in the early
19 morning before her shift to help her sleep. After being at work for two hours, Respondent was
20 confronted by H.R. stating that she smelled of alcohol. Respondent also admitted that she
21 consumed alcohol at least 2-3 times per week, and that she used opiates while taking care of
22 patients in the emergency room. Respondent stated that she had been taking prescribed pain
23 medications, MS Contin and Norco, for the last eight years, as prescribed by a pain specialist for
24 chronic pain.

25 c. On or about September 16, 2011, Respondent contacted her Diversion Program
26 case manager stating that she would like to withdraw from the program. Due to the admittance of
27 alcohol use and taking prescribed pain medications, upon Respondent's decision not to enter the
28 Diversion program, Respondent was deemed subject to discipline as a public safety risk.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 269287, issued to Jill Marie Winkler, also known as Jill Marie Kauffman;

2. Ordering Jill Marie Winkler to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

September 6, 2012

for 

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2012802089